

Finding of No Significant Impacts (FONSI)

State of Oregon Indemnity Selection

Roseburg District
EA# OR-104-05-11

The State of Oregon has filed application OR061026 for the selection of approximately 180 acres of BLM-administered lands on the Roseburg District as Indemnity School Selections under the provisions of Revised Statutes 2275 and 2276 (43 U.S.C. 851 & 852) and by a federal court decision, Civil No. 85-646-MA. The BLM must respond to this application for lands, in lieu of those which were originally granted to the State of Oregon when it entered the Union in 1859. The federal court decision in 1992 found the State of Oregon was entitled to a remaining 5,202.29 acres of public lands and ordered BLM to fulfill the remaining debt to the State of Oregon and allow land transfers to the State to “proceed to patent”. This proposed action selection partially fulfills this outstanding debt.

An interdisciplinary team of Roseburg District Bureau of Land Management (BLM) staff has analyzed the proposal to transfer approximately 180 acres of Public Domain lands to the State of Oregon. Legal descriptions of and general information about the lands proposed for transfer to the State of Oregon are given in the Environmental Assessment (EA) #OR-104-05-11 and initial classification decision. The EA analyzed the environmental effects of transferring ten different parcels of land to the State of Oregon in order to determine the suitability of the parcels for transfer. These ten parcels of land total approximately 464 acres. The BLM has determined that five parcels are suitable for transfer. BLM is making the proposed classification decision on Parcels 3, 4, 5, 7, and 9, totaling 199.06 acres. While the EA approximated that 180 acres would be transferred, the increase in actual acres (199.06) being transferred did not raise any significant effects.

Following transfer to the State of Oregon, the five parcels may be transferred to private parties by the State of Oregon in order to satisfy the State’s own land debts. Regardless of whether the State or a private party manages the parcels, BLM reasonably expects that the lands would continue to be managed for timber production. BLM effects analysis was based upon this assumption.

Test for Significant Impacts.

1. Has significant impacts that may be both beneficial and adverse (40 CFR §1508.27(b) (1))?
() Yes (√) No

Remarks: Any impacts are consistent with the range and scope of those effects analyzed and described in the Roseburg District Proposed Resource Management Plan/Environmental Impact Statement (PRMP/EIS). The effects analysis did not indicate any significant environmental effect, particularly given that the small amount of acreage

affected (199.06 acres) is scattered across three 5th field watersheds and five parcels (EA, pgs. 34-86).

2. Has significant adverse impacts on public health or safety (40 CFR §1508.27(b) (2))?

☐ Yes ☒ No

Remarks: The five parcels selected for transfer are scattered, isolated tracts in the Coast and Cascade Ranges, largely surrounded by private and public timberlands. BLM performed hazardous materials clearances on all five parcels, and the transfer of these parcels does not have any significant adverse impacts on public health or safety (EA, pgs. 5, 10).

3. Adversely affects such unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, wild or scenic rivers, sole or principal drinking water aquifers, prime farmlands, wetlands, floodplains or ecologically significant or critical areas including those listed on the Department's National Register of Natural Landmarks (40 CFR §1508.27(b) (3))?

☐ Yes ☒ No

Remarks: The five selected parcels do not contain unique geographic characteristics (such as those listed above); these characteristics will not be affected (EA, pgs. 5 - 7).

4. Has highly controversial effects on the quality of the human environment (40 CFR §1508.27(b) (4))?

☐ Yes ☒ No

Remarks: Comments were solicited from affected tribal governments, adjacent landowners and affected State and local government agencies. No comments were received from these sources.

During the thirty day public review period for the State of Oregon Indemnity Selection EA (which ended March 8, 2007), comments were received from three organizations (comments submitted jointly) and one individual. Upon reviewing the comments received, those that were specific to the Indemnity Selection project and warranted additional clarification were addressed on pages 21-32 of the Decision Document. However, BLM received no comments that raised controversy over the nature of the effects on the human environment.

5. Has highly uncertain or involve unique or unknown risks to the human environment (40 CFR §1508.27(b) (5))?

☐ Yes ☒ No

Remarks: The effects analysis did not yield any highly uncertain or unique or unknown risks to the human environment from the proposed project (EA, pgs. 34-86).

6. Establishes a precedent for future actions with significant effects or represents a decision in principle about a future consideration (40 CFR §1508.27(b) (6))?

☐ Yes ☒ No

Remarks: The indemnity selection is based upon a legal obligation of the federal government to the State of Oregon. A 1992 US District Court decision has quantified this debt obligation in acreage, and the BLM is working towards satisfying the sum of the debt. The unique legal nature of this action will not set precedent for future actions; once the BLM satisfies the entire debt, no further indemnity selections shall be made.

7. Is related to other actions with individually insignificant but cumulatively significant impacts (40 CFR §1508.27(b) (7))?

☐ Yes ☒ No

Remarks: The cumulative impacts to wildlife, botany, water resources, and fisheries are analyzed by fifth field watershed in the State of Oregon Indemnity Selection EA (pgs. 78-86) and found not to be significant.

8. Has adverse effects on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources (40 CFR §1508.27(b) (8))?

☐ Yes ☒ No

Remarks: The BLM conducted surveys for cultural resources and completed Section 106 responsibilities under the National Historic Preservation Act, in accordance with the 1998 Oregon State Historic Preservation Office protocols. No cultural resources were discovered. It has been determined that there will be no effect to significant scientific, cultural, or historical resources (EA, pg. 6).

9. May adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973 (40 CFR §1508.27(b) (9))?

Botanical Species ☐ Yes ☒ No

Fish Species ☐ Yes ☒ No

Wildlife Species ☐ Yes ☒ No

Remarks: None of the five parcels selected for transfer contain designated critical habitat for threatened or endangered species.

There are currently no listed, or proposed for listing, fish species in the project area (EA, pg. 18). Parcel 7 contains Essential Fish Habitat (EFH) for Coho salmon or Chinook salmon (EA, pgs. 19 and 54). Parcels 3, 4, 5, and 9 are within one stream-mile of documented EFH (EA, pg. 54). However, the conveyance of these parcels will not have direct effects rising to the level of adverse effect to EFH as defined by 50 CFR 600. Therefore, there are no further consultation

obligations with the National Marine Fisheries Service (EA, pgs. 54-55).

In accordance with the Endangered Species Act, consultation with the U.S. Fish and Wildlife Service (USFWS) has been completed for the federally threatened bald eagle, Northern spotted owl, marbled murrelet, and Kincaid's lupine.

BLM received a biological opinion from the USFWS (TAILS # 13420-2007-F-0088), dated April 17, 2007. This biological opinion concurs with the Roseburg District BLM's conclusion that the proposed action is likely to adversely affect the Northern spotted owl, but would not significantly affect the spotted owl population on the District or within the Province (TAILS # 13420-2007-F-0088, pg. 41). The biological opinion also concludes that the proposed action is not likely to significantly affect the survival and recovery needs of the either the murrelet or the bald eagle at the District, Conservation Zone, recovery zone, or range-wide scales (TAILS # 13420-2007-F-0088, pgs. 43-44). Lastly, the biological opinion finds that the proposed action is not likely to adversely affect Kincaid's lupine (TAILS # 13420-2007-F-0088, pg. 44). This finding disputes the BLM's conclusion that the proposed action would likely adversely affect Kincaid's lupine. The BLM based its conclusion upon the programmatic biological opinion which states that in the absence of surveys, effects to a listed plant are determined to be "likely to adversely affect" (EA, pgs. 49-50).

10. Threatens to violate Federal, State, or local law or requirements imposed for the protection of the environment (40 CFR §1508.27(b) (10))?

☐ Yes ☒ No

Remarks: The transfer of the five parcels under the State of Oregon indemnity selection is consistent with all applicable Federal, State, and local laws (EA, pg. 5). The impacts of such a transfer on the human environment will not exceed those anticipated by the Roseburg District PRMP/EIS.

Based on the analysis of potential impacts contained in the environmental assessment, I have determined that the State of Oregon Indemnity Selection will not have a significant impact on the human environment within the meaning of Section 102(2) (c) of the National Environmental Policy Act of 1969, and that an environmental impact statement is not required. I have determined that the effects of the transfer of 199.06 acres of Zone 2 land will be within those anticipated and already analyzed in the *Roseburg District Proposed Resource Management Plan/Environmental Impact Statement* (PRMP/EIS, 1994) and will be in conformance with the *Record of Decision and Resource Management Plan* (ROD/RMP) for the Roseburg District, approved by the Oregon/Washington State Director on June 2, 1995.

Marci L. Todd, Field Manager
Swiftwater Field Office

Date

Table 2. Summary of Effects of the Action: State of Oregon Indemnity Selection

Context (What?)	Intensity (How Much?)	Reason for not being Significant.
Cultural Resources		
Cultural Resources.	Five of the parcels were surveyed for cultural resources. The remaining five parcels fall under the Coast Range exemption of the 1998 Protocol for Managing Cultural Resources on Lands Administered by the Bureau of Land Management in Oregon. Section 106 responsibilities under the National Historic Preservation Act were completed, in accordance with the 1998 Oregon State Historic Preservation Office protocols. No cultural or historic resources were identified (EA, pg. 6).	There will be no effect to cultural or historical resources (EA, pg. 6).
Botany & Noxious Weeds		
Federally threatened (FT) Kincaid's lupine and the federally endangered (FE) rough popcorn flower .	The parcels are outside the range of the rough popcorn flower (EA, pg. 15). No known Kincaid's lupine sites exist on the parcels, but habitat is suspected on some or all of the parcels (EA, pg.15).	No impacts to rough popcorn flower will occur since the project is outside of its range. The USFWS determined that the proposed action is not likely to adversely affect the Kincaid's lupine (TAILS #: 13420-2007-F-0088, pg. 44).
Survey & Manage (S&M) Species.	The Regional Ecosystem Office determined that land tenure adjustments do not require Survey and Manage protocol in a memorandum dated March 27, 1997. (EA, pg. 6).	This proposal does not require survey and manage protocol.

Bureau Sensitive (BS), Assessment (BA), and Tracking (BT) Species.	There are 33 such botanical species that may be present in the project area (EA, pgs. 50-52).	No detailed effects analysis is practical at this time. The effects are expected to vary by species, depending on habitat needs and preferences.
Fisheries		
Essential Fish Habitat	Parcel 7 contains essential fish habitat (EA, pg. 19).	The federal transfer of land would not cause any direct effect rising to the level of adverse effect to EFH (EA, pg.54).
Bureau Sensitive (BS) & Bureau Assessment (BA)	Oregon Coast Steelhead (Bureau Special Status) may be present in the project area (EA pg. 19).	No detailed effects analysis is practicable due to the wide range of management actions that could occur within the Riparian Management Areas under the Oregon Forest Practices Act (EA, pg. 53).
Hydrology		
Stream Flow (water yield and peak flow)	The BLM assumes that management of the parcels after transfer to the State would include removal of vegetation (timber harvest) according to the Oregon Forest Practices Act (EA, pg. 8).	Streams on parcels 3, 4, 5 have the potential for measurable increases in peak flow. However, no impacts from these increased peak flows would occur because: <ul style="list-style-type: none"> • instream structure is adequate to dissipate increases in stream energy; • expected increases would be within the natural range of flows for streams. (EA, pgs. 61, 64, 65-66, 70, 74,

		105).
Wildlife		
Bald Eagle	Parcels 5 and 9 contain suitable nesting and roosting habitat for bald eagles and are within 2 miles of the Umpqua River and Elk Creek (EA, pg. 26, 31).	The USFWS determined that the loss of potentially occupied habitat is so small that it is not likely to significantly affect the survival and recovery needs of the bald eagle at the District, recovery zone, or range-wide scales. (TAILS #: 13420-2007-F-0088, pg. 44).
Northern Spotted Owl Habitat	All five parcels contain suitable nesting, roosting, and foraging habitat for the Northern spotted owl (EA pgs. 23-25, 28, 31). None of these parcels contain a designated Known Owl Activity Center or any known nest sites (EA pgs. 23-25, 28, 31). Parcel 9 is immediately adjacent to a designated 100-acre Known Owl Activity Center (EA, pg. 31).	According to USFWS, parcels 3, 4, 5, 9 are within a Northern spotted owl home range. (TAILS #: 13420-2007-F-0088, pg. 41). The USFWS found potential harvest within these parcels is likely to adversely affect the Northern spotted owl (TAILS #: 13420-2007-F-0088, pg. 41). However, this potential effect would not be expected to significantly affect the spotted owl population on the District or within the Province (TAILS #: 13420-2007-F-0088, pg. 41).
Critical Habitat for the Northern Spotted Owl	None of the parcels selected for transfer contain federally-designated critical habitat for the Northern Spotted Owl.	No critical habitat is affected by the proposed action.
Marbled Murrelet Habitat	Parcels 3 and 5 contain suitable marbled murrelet habitat, but neither parcel contains known nest sites (EA pgs. 23, 25). Both	Based on the potential harvest of these parcels, the USFWS determined the proposed action is

	<p>parcels are within Marbled Murrelet Inland Management Zone 1 (EA pgs. 23, 25). Parcels 4, 7, and 9 are outside the range of the marbled murrelet (EA pgs. 24, 28, 31).</p>	<p>likely to adversely affect murrelets (TAILS #: 13420-2007-F-0088, pg. 43). The USFWS determined that the potential harvest of these parcels is not likely to significantly affect the survival and recovery needs of the murrelet at the District, Conservation Zone, or range-wide scales (TAILS #: 13420-2007-F-0088, pg. 43).</p>
Critical Habitat for Marbled Murrelet	<p>None of the parcels selected for transfer contain federally-designated critical habitat for the marbled murrelet.</p>	<p>No critical habitat is affected by the proposed action.</p>
Survey & Manage Species	<p>The Regional Ecosystem Office determined that land tenure adjustments do not require Survey and Manage protocol in a memorandum dated March 27, 1997. (EA, pg. 6).</p>	<p>This proposal does not require survey and manage protocol.</p>
Bureau Sensitive and Bureau Assessment Species	<p>There are 6 Bureau sensitive and 5 Bureau assessment species that may be present in the project area (EA, pgs. 45-46).</p>	<p>No detailed effects analysis is practical at this time. The effects are expected to vary by species, depending on habitat needs and preferences.</p>